MONTANA LEGISLATIVE HISTORY

Chapter 169 1991

Bill H 99 S _____ Original bill & history ✓ C

H. Committee on Highways		S. Committee on Highways	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
1/17	✓ C	3/12	✓ C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 1/17	✓ C	Out 3/7	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NUMBER 31 EFFECTIVE DATE: 10/01/91

HB 99 INTRODUCED BY STANG
ALLOW A BICYCLIST TO RIDE ON
PAVED SHOULDER OF A ROADWAY
BY REQUEST OF DEPARTMENT OF HIGHWAYS

1/03	INTRODUCED		
1/03	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/07	FIRST READING		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED		
1/22	2ND READING PASSED	76	22
1/24	3RD READING PASSED	85	12
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/12	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/12	2ND READING CONCURRED	49	0
3/13	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	79	11
3/18	3RD READING AMENDMENTS CONCURRED	84	13
3/22	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/26	SIGNED BY GOVERNOR		

CHAPTER NUMBER 169 EFFECTIVE DATE: 10/01/91

HB 100 INTRODUCED BY RUSSELL
GARNISHMENT AND ATTACHMENT OF PROPERTY FOR
FAILURE TO PAY MINOR TRAFFIC FINES
BY REQUEST OF ADULT AND JUVENILE DETENTION,
JOINT INTERIM SUBCOMMITTEE ON

1/05	INTRODUCED
1/05	FISCAL NOTE REQUESTED
1/05	REFERRED TO JUDICIARY
1/07	FIRST READING
1/12	FISCAL NOTE RECEIVED
1/15	FISCAL NOTE PRINTED
1/18	HEARING
1/23	TABLED IN COMMITTEE

HB 101 INTRODUCED BY RUSSELL
SERVE DUI SENTENCES IN SECURE FACILITIES OTHER THAN JAILS
BY REQUEST OF ADULT AND JUVENILE DETENTION,
JOINT INTERIM SUBCOMMITTEE ON

1/05	INTRODUCED		
1/05	REFERRED TO JUDICIARY		
1/07	FIRST READING		
1/18	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED AS AMENDED	95	3
1/28	3RD READING PASSED	89	7
	TRANSMITTED TO SENATE		
1/29	FIRST READING		
1/29	REFERRED TO JUDICIARY		
3/06	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/07	2ND READING CONCURRED	49	0

HOUSE BILL NO. 99

INTRODUCED BY STANG

BY REQUEST OF THE DEPARTMENT OF HIGHWAYS

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PERSON TO OPERATE A BICYCLE ON THE PAVED SHOULDER OF A ROADWAY; AND AMENDING SECTIONS 61-1-206 AND 61-8-605, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-1-206, MCA, is amended to read:

"61-1-206. Roadway. "Roadway" Except as used in 61-8-605, "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" ~~as used herein shall refer~~ refers to any ~~such~~ roadway separately but not to all ~~such~~ roadways collectively."

Section 2. Section 61-8-605, MCA, is amended to read:

"61-8-605. Riding on roadways and bicycle paths. (1) As used in this section, "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

~~(1)~~(2) A person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable except when:

(a) overtaking and passing another vehicle proceeding in the same direction;

(b) preparing for a left turn at an intersection or into a private road or driveway; or

(c) necessary to avoid a condition that makes it unsafe to continue along the right side of the roadway, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

~~(2)~~(3) A person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as close to the left side of the roadway as practicable.

~~(3)~~(4) Persons riding bicycles upon a roadway shall ride in single file except when:

(a) riding on paths or parts of roadways set aside for the exclusive use of bicycles;

(b) overtaking and passing another bicycle;

(c) riding on a paved shoulder or in a parking lane, in which case the persons may ride two abreast; or

(d) riding within a single lane on a laned roadway with at least two lanes in each direction, in which case the persons may ride two abreast if they do not impede the normal and reasonable movement of traffic more than they

INTRODUCED BILL
HB99

would otherwise impede ~~such~~ traffic by riding single file and in accordance with the provisions of this chapter.

~~(4)~~(5) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use ~~such~~ the path and ~~shall~~ not use the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when ~~such~~ the bicycle is prohibited from using ~~such~~ the ~~paths~~ path.

~~(5)~~(6) A bicycle, as defined in 61-1-123(2), is excluded from the provisions of subsections ~~(1)~~ (2) and ~~(2)~~ (3)."

-End-

personal injury has occurred. **Mr. Beck** said if a Montana worker goes across the state line, say into Idaho, Montana would be responsible and vice versa if a worker from Idaho came into Montana.

REP. STEPPLER asked if a Montana plow truck was involved in a wreck in Idaho who would be responsible for the liability. **Mr. Beck** stated it would be handled in the agreement made with the other state involved.

Closing by Sponsor:

CHAIRMAN STANG urged the committee to support HB 87 bill.

HEARING ON HB 99

Presentation and Opening Statement by Sponsor:

CHAIRMAN BARRY STANG, House District 52, St. Regis, said this bill had been drafted at the request of the Highway Department to change the law to allow a bicycle on the paved shoulder of a highway. Present law states that a person on a bicycle has to ride as near to the right side as possible. It also states that part of the road is used for vehicle use. He said the Highway Department and Department of Administration have recently settled this case and this is the reason this bill is before the committee.

Proponents' Testimony:

James Beck, Chief Council for Department of Highways, said that **CHAIRMAN STANG** noted in a recent case that was brought to the attention of the Department of Highways that the definition of roadway excludes shoulder or burn. He said the present law states that a bicyclist cannot ride on the paved shoulder. **Mr. Beck** states this bill is to amend the word roadway to include paved shoulder for bicycle riders.

Opponents' Testimony: None

Questions From Committee Members:

REP. TUNBY asked if it would be possible to encourage Congress to act nationwide to include paved shoulders for bicyclist. **Mr. Beck** did not think that could be brought to their attention because of the more important agenda they have to deal with.

REP. STEPPLER asked if other states have this written into their laws. Is there a difference from one state to another, i.e., going from Montana to Idaho or Montana into North Dakota etc, or is Montana in line with the other state laws. **Mr. Beck** replied he did not know what statutes Idaho, North Dakota or other states have.

Closing by Sponsor:

CHAIRMAN STANG answered **REP. STEPPLER'S** question about the laws for bicyclist in other states if they were in line with Montana. **CHAIRMAN STANG** said that bicyclist probably have to know the different laws from one state to the next.

HEARING ON HB 83

Presentation and Opening Statement by Sponsor:

CHAIRMAN BARRY STANG, House District 52, said this bill is also at the request of the Department of Highways. It is an act authorizing the telephonic issuance of permits for excess size and weight. He said the truckers in his area have 3 options at this time to purchase permits if they are overweight or too wide; 1) if done during the week or before 5:00 p.m. they can drive their car to Missoula, stop at the highway department building and purchase a permit; 2) if done on Saturday or Sunday, they would have to drive to Drummond; or 3) drive to Haugan. This bill allows for them to call over the phone to purchase a permit than go to the nearest weigh station, under authority be issued the permit.

Proponents' Testimony:

Dave Galt, GVW, Highway Department, said this bill goes hand in hand with the computerization at the weigh stations. If the department purchases the computers and the scale telephone authorization authority will greatly enhance the trucking industry and reduce the downtime for the truck operators.

Ben Havdahl, Montana Motor Carrier's Association, wanted to be on record for HB 83. He said the convenience of this bill would be greatly appreciated for the Motor Carriers.

Questions From Committee Members:

REP. LARSON asked **Dave Galt** what would keep an illegal truck from running. **Mr. Galt** said the only thing that would stop the truckers would be the GVW officers. **Mr. Galt** said if the computers were put into the weigh stations they would be able to check the trucker and issue him a hard copy of the permit. **REP. LARSON** asked **Mr. Galt** if the safety of the trucks wouldn't be overlooked by issuing the permits at the weigh stations. **Mr. Galt** said that is not the duty of the GVW to inspect the safety of the trucks.

REP. BERGSAGEL asked **Mr. Galt** why he keeps referring to computers and what are they doing now. **Mr. Galt** said without computers the GVW is not issuing permits and it is a problem at this time when trucks are running without a permit.

REP. CLARK asked **Mr. Galt** what the time table is to get the

EXECUTIVE ACTION ON HB 99

Motion: **REP. TUNBY MOVED HB 99 DO PASS.**

Motion/Vote: Question was called. Voice vote was taken.

Vote: **HB 99 DO PASS.** Motion **CARRIED** unanimously.

EXECUTIVE ACTION ON HB 82

Motion: **REP. LARSON MOVED HB 82 DO PASS.**

Discussion: **REP. LARSON** said this bill allows the MHP to make arrest for statutes bearing mobile equipment carrying LPG.

REP. STEPPLER asked **REP. CLARK** if the MHP has to make the arrest. **REP. CLARK** said the GVW can issue a citation, at this time the GVW cannot even issue a citation to people who do not have a drivers license. **REP. CLARK** said that most of the time a GVW officer cannot find a MHP to make an arrest and said this is a good bill.

REP. GERVAIS asked **REP. CLARK** if a person is driving while drunk can a GVW officer make an arrest. **REP. CLARK** replied the GVW officers can only detain them until a MHP can arrive at the scene.

Vote: **HB 82 DO PASS.** Motion **CARRIED** 15 to 2 with **REP. STEPPLER** and **REP. DEBRUYCKER** voting no.

ADJOURNMENT

Adjournment: 5:20 p.m.

BARRY STANG, Chair

Claudia Johnson/by JA
CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL **DATE** 1-17-91

NAME	PRESENT	ABSENT	EXCUSED
REP. FLOYD "BOB" GERVAIS, V.-CHAIR			✓
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. PATRICK GALVIN	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. JIM MADISON	✓		
REP. LINDA NELSON	✓		
REP. DON STEPPLER	✓		
REP. HOWARD TOOLE	✓		
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

MINUTES
MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By SENATOR CECIL WEEDING, Chairman, on February 12, 1991, at 3:00 p.m.

ROLL CALL

Members Present:
Cecil Weeding, Chairman (D)
Betty Bruski, Vice Chairman (D)
Bill Farrell (R)
John Harp (R)
Francis Koehnke (D)
Jerry Noble (R)
Jack Rea (D)
Lawrence Stimatz (D)
Larry Tveit (R)

Members Excused: None.

Staff Present: Paul Verdon (Legislative Council).
Pat Bennett, Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: CHAIRMAN WEEDING informed the Committee that Senate Bill 109 had been referred back to the Committee. SENATOR PAUL SVRCEK distributed suggested amendments to SB 109. (SEE EXHIBIT 1) Senator Svrcek explained the amendments.

HEARING ON HOUSE BILL 99

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BARRY STANG, District # 52, stated House Bill 99 was presented to him at the request of the Department of Highways. (SEE EXHIBIT 2) Representative Stang distributed copies of letters with regard to bicyclists. (SEE EXHIBIT 3, 4, & 5)

Proponents' Testimony:

JAMES BECK, Administrator of the Legal Division, Department of Highways, stated House Bill 99 amends Sections 61-1-306 and 61-8-605. Section 61-1-306 is presently written to define roadway as that portion of highway used for vehicular travel exclusive of the shoulder. This definition creates a problem in Section 61-8-605 which, as presently written, requires a person to ride their bicycle right of the roadway, which does not include the shoulder. This bill will redefine roadway for the purposes of riding a bicycle. The net effect of this would be to legalize the riding of a bicycle on paved shoulders.

MARK CADWALLADER, past president of the Helena Bicycle Club, testified in support of HB 99. (SEE EXHIBIT 6)

MARY CHERYL HALL faxed her testimony in support of HB 99 to the Committee. (SEE EXHIBIT 7)

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE STANG closed the hearing on HB 99.

HEARING ON SENATE BILL 273

Presentation and Opening Statement by Sponsor:

SENATOR BERNIE SWIFT, District #32, stated Senate Bill 273 was a bill to enact into law an existing policy of the Montana Department of Highways. (SEE EXHIBIT 8) A suggested amendment is included in Senator Swift's testimony on the last page.

Proponents' Testimony:

DON ALLEN, representing the Montana Wood Products Association, testified in support of SB 273.

BEN HAVDAHL, representing the Montana Motor Carriers Association, stated they support SB 273. He stated that the wood chip haulers and the six axle log truckers have come to depend on the continuation of this policy for purposes of establishing their loads and hauling the weights they would be authorized to do under this policy.

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE 2-12-9
BILL NO. HB99

H.B. 99

During a recent trial where a bicyclist was injured on Interstate 15 and had sued the State of Montana for damages, the plaintiffs attorney, in part, based his case on the fact that current Montana law requires that a bicyclist operate on the driving lanes of the highway. This requirement is contrary to good safety practice in that on Interstates or other rural highways motor vehicles operate at a considerably higher speed than bicycles do. The substantial difference in speeds will cause vehicles to run into the rear of bicyclists or make sudden vehicle maneuvers to avoid the bicycle which may cause loss of control of the motor vehicle and some other type of resultant accident.

At the present time Section 61-8-605 requires persons to ride as near the right side of the roadway as practicable. Roadway is presently defined in Section 61-1-206 as "that portion of the highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder". H.B. 99 amends 61-8-605 so that for the purposes of riding bicycles, the term roadway includes the paved shoulder. Therefore 61-8-605 as amended will require a bicyclist to ride as near to the right of the roadway including the paved shoulder as is practicable.

EXHIBIT NO. 3
DATE 2-12-91
BILL NO. HB99

BIKECENTENNIAL

P.O. Box 8308, Missoula MT 59807
(406) 721-1776

Hon. Mike Halligan
Montana Senate
Helena MT 59601

January 25, 1991

Dear Senator Halligan;

Earlier this week, I got a copy of HB99 (attached), a bill recently passed by the House, which modifies the bicycle-related language in MCA, allowing bicyclists to ride on paved shoulders. Generally, I don't have any problems with this bill. It seems to be a housekeeping measure designed to allow cyclists use of a paved shoulder, something that is not clearly allowed in the current MCA language.

However, HB99 leaves the mandatory bicycle path provision intact. This provision requires that when a "usable" path is available adjacent to a roadway, cyclists shall use it and not the roadway. I would urge you to offer an amendment to HB99 either eliminating this provision (part 5, see enclosed) or changing the "shalls" to "mays". Here are the reasons:

1. In numerous communities around the country, bicycle paths adjacent to the roadway have been shown to have higher car/bike accident rates than the roadways themselves, due to increased problems with turning and crossing conflicts at intersections and driveways. I have seen studies from Palo Alto, California, and Eugene, Oregon, for example, which clearly show this. In Palo Alto, the car/bike accident rate tripled in one year on a road where a sidepath was installed. While sidepaths only account for 15% of their bikeway system, they account for about 85% of their crashes. In Eugene, sidepaths have the highest car/bike accident rates of any of their bikeway types.

2. Because of the growing amount of bad experience with sidepaths, in 1981, the American Association of State Highway and Transportation Officials (AASHTO) said in their Guide to the Development of New Bicycle Facilities that "Providing a sidewalk bicycle path is unsatisfactory for a variety of reasons" (copy of relevant page attached). AASHTO's most current Guide, which will be published this year and has the support of the highway departments in all 50 states, recommends against sidepaths even more strongly. (Steve Kologi of the MT Department of Highways is on the task force, by the way.)

3. In a Montana community with bicycle paths adjacent to the roadways, bicyclists are required by this law to use the paths and not the adjacent roadways, despite the known and undisputed dangers of sidepaths as mentioned above. The law says cyclists must use a "usable" path but that does not say whether that path must meet commonly accepted standards. Thus, cyclists are required to unknowingly accept higher risks.

4. The jurisdiction having control over a sidepath has significantly greater liability for accidents on that facility, given the weight of evidence against such paths. Lawsuits around the country regarding substandard bike paths have resulted in multi-million dollar settlements and judgements against the jurisdictions. A sidepath suit against a town would be relatively easy to win and hard to defend. And the paths I've seen in Montana are no better than the ones involved in the law suits I've reviewed.

5. The National Committee on Uniform Traffic Laws & Ordinances did away with the mandatory path provision in their Uniform Vehicle Code back in the 1970s. In this respect, Montana is behind the times.

6. Sidepaths encourage wrong-way riding, a factor in many of the accidents. Motorists don't look for or expect bicyclists coming quickly from the wrong direction. And wrong-way riding is illegal in all 50 states.

In order to save cyclists from the dangers of poorly-implemented and maintained paths and to save jurisdictions from additional liability, I encourage you to offer this amendment to HB99.

Yours,

John Williams
Safety Coordinator

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE 2-12-91
BILL NO. HB99

BIKECENTENNIAL™

P.O. Box 8308, Missoula MT 59807
(406) 721-1776

Montana's Mandatory Path Requirement

Current language of MCA 61-8-605:
..."(4) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when such bicycle is prohibited from using such paths.

Revision contained in House Bill 99:
..."~~(4)~~ (5) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use ~~such~~ the path and ~~shall~~ not ~~use~~ the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when ~~such~~ the bicycle is prohibited from using ~~such~~ the ~~paths~~ path.

Suggested revision A *(our language shown in large boldface)*:
..."~~(4)~~ (5) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders **may** ~~**shall**~~ use ~~such~~ the path and ~~shall~~ not ~~use~~ the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when ~~such~~ the bicycle is prohibited from using ~~such~~ the ~~paths~~ path.

Suggested revision B: Eliminate the section entirely.
~~..."(4) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when such bicycle is prohibited from using such paths.~~

Submitted by:

John Williams
Safety Coordinator
January 25, 1991

SENATE HIGHWAYS
EXHIBIT NO. 5
DATE 2-12-91
BILL NO. HB99

Article for the Missoula Bicycle Club Newsletter
by John Williams, Safety Coordinator, Bikecentennial

Recently, the Montana House of Representatives passed House Bill 99, "A Bill for an act entitled 'An Act to Allow a person to operate a bicycle on the paved shoulder of a roadway...'." There has been some confusion in the bicycling community regarding this bill, which I'll try to clear up.

First, there is nothing in the bill that would ban bikes from any highways. It's purpose is to clear up a minor annoyance in Montana Code Annotated. That "annoyance" is as follows:

The current law's definition of "roadway" includes that portion of the highway "improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm of shoulder." Since, in Montana, bicycles are vehicles and vehicles aren't supposed to travel on a shoulder, one could argue that bicyclists aren't supposed to use a paved shoulder. While I doubt many cyclists have been stopped for using a shoulder, the possibility existed.

The new language changes the definition of roadway only with respect to the bicycle section of State Law. For bicyclists, the term "roadway" would mean "that portion of the highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

Does this, then, mean we have to ride on shoulders? No. Including the paved shoulder in the definition of roadway does not negate the other provisions in this section of State Law. These provisions basically say that you have to ride as far right as "practicable" except if you're going the speed of traffic. They then give the following exceptions to the "ride right" law: when you're preparing to turn left; when you're overtaking another vehicle; and when "necessary to avoid a condition that makes it unsafe to continue along the right side of the roadway, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane."

In other words, you only have to ride as far right as is safe. If a paved shoulder is covered with debris or has crumbling pavement, you don't have to use it.

Is House Bill 99 a good idea? Probably. I personally don't think it's of great concern one way or the other.

SENATE HIGHWAYS
EXHIBIT NO. 6
DATE 2-14-91
BILL NO. HB 99

TESTIMONY OF MARK CADWALLADER

BEFORE THE SENATE HIGHWAYS COMMITTEE

TUESDAY, FEBRUARY 12, 1991

My name is Mark Cadwallader and I am here to speak in favor of House Bill 99 and to support an amendment to it. I am a Helena attorney, the past president of the Helena Bicycle Club, a long time member of the Montana bicycling community, and one of the authors of the 1983 revision of Montana's bicycle laws. I am here not to talk about bicycling so much as to talk about how this bill can be amended to help avoid agency liability. I want to encourage the committee to amend HB99 to either remove the mandatory sidepath requirement entirely, as has been done in the Uniform Vehicle Code, or make the use of sidepaths permissive.

I have with me today a letter from John Williams, addressed to Senator Halligan, which Mr. Williams asked me to present for the committee's consideration, and I ask that Mr. Williams' letter be included in the record. Unfortunately, Mr. Williams is unable to be here in person today to testify on this bill. Mr. Williams is a nationally known expert in the field of bicycle pathway use and design criteria. Mr. Williams has testified as an expert witness in liability trials concerning design defects and negligence in bicycle path lawsuits. Mr. Williams suggests, and I concur, that the law be changed in Montana to eliminate the requirement that bicyclists be forced to use sidepaths. The primary concern is that a great many facilities in this state do not conform with current design standards, and that mandatory use creates liability for the agency responsible. This means exposure not only for the State, but also for the local government body that is responsible for maintenance.

Testimony of Mark Cadwallader
Senate Highways Committee
February 12, 1991
House Bill 99

Eliminating the mandatory language of subsection (5) of section 61-8-605 will provide at least some defense against damage claims. Bicyclists who wish to use sidepaths will not be prohibited from riding there, while bicyclists who are more comfortable using the roadway will be legally permitted to do so.

Mr. Williams' letter contains greater detail concerning his reasons in support of the elimination of the mandatory use of sidepaths. I can report to you, however that the price of liability is not cheap in this area. The last reported jury verdict concerning a bicycle accident in Montana awarded the injured cyclist over a half million dollars! Other states have seen verdicts of several million dollars. The State of Wisconsin repealed its' mandatory sidepath law only after a city settled out of court for a half million dollars. The State of Montana should learn from that experience.

I respectfully urge your support of an amendment to HB99 that will eliminate the mandatory use of sidepaths.

MARK CADWALLADER
515 North Rodney Street
Helena, Montana 59601
(406) 443-5703

Multi-Use

In general, multi-use paths are undesirable; bicycles and pedestrians do not mix well. Whenever possible, separate bicycle and pedestrian paths should be provided. If this is not feasible, additional width, signing and striping should be used to minimize conflicts.

Providing a sidewalk bicycle path is unsatisfactory for a variety of reasons. Sidewalks are typically designed for pedestrian speeds and maneuverabilities and are not safe for higher-speed bicycle use. Conflicts are common between pedestrians traveling at low speeds (or exiting stores, parked cars, etc.) and bicyclists, as are conflicts with fixed objects (e.g., parking meters, utility poles, sign posts, bus benches, trees, fire hydrants, mail boxes, etc.). Walkers, joggers, and roller skaters can, and often do, change their speed and direction almost instantaneously leaving bicyclists insufficient time to react to avoid collisions. Similarly, pedestrians often have difficulty predicting the direction an oncoming bicyclist will take. At intersections, motorists are often not looking for bicyclists (who are traveling at higher speeds than pedestrians) entering the crosswalk area, particularly when motorists are making a turn. Sight distance is often impaired by buildings, walls, property fences, and shrubs along sidewalks, especially at driveways.

Bicycles riding on sidewalks can be expected in residential areas with young children. With lower bicycle speeds and lower motor vehicle speeds, potential conflicts are somewhat lessened, but still exist. This type of sidewalk bicycle use is generally accepted, but it is inappropriate to sign a sidewalk as a bicycle path or bicycle route if to do so would prohibit bicyclists from using an alternate facility that might better serve their needs.

It is also undesirable to mix mopeds and bicycles on the same facility. Where it is necessary to do so, the facility should be designed to account for the higher operating speeds of mopeds, the additional maneuvering requirements of mopeds, and the increased frequency of passing maneuvers. Many of the design guidelines prescribed in Chapter 2 under "Bicycle Paths" (e.g., widths, design speeds, horizontal alignments, grades, etc.) would be inadequate for facilities intended for moped use. Mopeds also contribute to a lessening of the quiet, relaxing experience most bicyclists desire on bicycle paths.

Using a path for bicycles and horses creates an unsatisfactory and possibly dangerous mix. Horses startle easily and may kick out suddenly if they perceive bicyclists as a danger. A bicycle path and a bridle path are also incompatible in their surface design requirements. Bicycles function best on hard surfaces; horses function best on soft surfaces. A compromise to accommodate both would result in a less than adequate surface for both.

During the winter months, where there is insufficient bicycle traffic to justify plowing snow, operators of bicycle paths may allow them to be used by cross-country skiers or snowmobile operators.

Providing bicycle parking facilities is an essential element in an ov effort to promote bicycling. People are discouraged from bicycling u adequate parking is available. Bicycle parking facilities should be prov at both the trip origin and the trip destination and should offer prote from theft and damage.

The wide variety of bicycle parking devices fall into two categori user needs; commuter or long-term parking, and convenience or sh term parking. The minimum needs for each differ in their placement protection. Long-term parking is needed at locations such as employm centers, transit or subway stations, and multifamily dwellings. Facil should be provided which secure the frame, both wheels, and access and which offer protection from the weather. Bicycle lockers and atte storage areas are good examples of long-term parking facilities. Short- parking is needed at locations such as shopping centers; libraries, rec tion areas, and post offices. Facilities should be very convenient an near building entrances or other highly visible areas which are self-p ing. The facility should be designed so that it will not damage bic (bent rims are common with racks that only support one wheel). If bi parking is not properly designed and located, bicyclists will use trees, ings, and other appurtenances. This practice can damage the app nances and create a hazard for pedestrians.

Several factors should be considered when planning and providing cle parking facilities. Care should be given in selecting the locatic ensure that bicycles will not be damaged by motor vehicles. Parking ities should not interfere with the normal pedestrian flow. Also, faci should be designed so that persons parking their bicycles will not di other parked bicycles. The amount of security needed to prevent needs to be evaluated for each area.

Facilities should be able to accommodate a wide range of bicycle sl and sizes including tricycles and trailers if used locally. Finally, faci should be simple to operate. If possible, signs depicting how to operat facility should be posted.

In addition to bicycle parking facilities, there are several other imp ments that complement bicycle paths and roadway improvements. P sions should be considered for interfacing bicycle travel with public sit, such as racks on buses, buses converted to carry bicycles abroa allowing bicycles on rapid rail facilities. Printing and distributing bi route maps is a high-benefit, low-cost project that is easily accompli Maps can help bicyclists locate bikeways, parking facilities, and id the relative suitability of different segments of the road system. maps can help bicyclists avoid narrow, high-speed, or high-volume one-way streets, barriers, and other problems to bicyclists. In add maps can provide information on Rules of the Road, bicycle safet and interfacing with mass transit.

SENATE HIGHWAYS
EXHIBIT NO. 7
DATE 2-12-91
BILL NO. HB99

MISSOULA BICYCLE PROGRAM
PUBLIC WORKS/ENGINEERING DEPT.
CITY OF MISSOULA
435 RYMAN
MISSOULA, MT 59802
406/523-4626

EP-91-M-1324

MEMO TO: Montana State Senate
Highways Committee
State Legislature

FROM: Mary Cheryl Hall
Bicycle Coordinator

RE: HB 99

DATE: February 8, 1991

I support the requested changes in HB 99 as submitted. I believe it would be in the cyclist's best interest to define ROADWAY in include the shoulder of the road.

I do have a question though in Section 2. (5) *Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and not the roadway. A person riding a bicycle defined in 61-1-123(2) is excluded from the provisions of this subsection when the bicycle is prohibited from using the path.*

This section should be deleted altogether. A Mandatory Sidepath law is not appropriate. Cyclists who feel more comfortable on a sidepath should be encouraged to ride there, but a competent cyclist should not be restricted to riding on the sidepath. They would probably be riding too fast to safely share that sidepath with recreation riders. Cyclists should not be restricted or required to leave the roadway.

EXECUTIVE ACTION ON HOUSE BILL 99

Motion:

SENATOR NOBLE MOVED that HB 99 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR NOBLE will carry HB 99.

Amendments, Discussion, and Votes:

SENATOR FARRELL MOVED to adopt the amendments to HB 99. (SEE EXHIBIT 5)

MOTION to ADOPT AMENDMENTS TO HB 99 PASSED UNANIMOUSLY.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 99 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 47

Motion:

None.

Discussion:

The Committee discussed House Bill 29 and House Bill 47. SENATOR FARRELL suggested the Committee amend one or the other to accomplish the intentions of both bills. If you put the two together the windshield and the rear window is 35% tinted, and the side windows are 20% tinted. The Committee deferred action on HB 29 and HB 47 until amendments could be drawn up.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

None.

EX. 2
3-7-
HB 9

Amendments to House Bill No. 99
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon
March 7, 1991

1. Page 1, line 19.
Strike: **"and bicycle paths"**

2. Page 3, lines 3 through 8.
Strike: subsection (5) in its entirety
Renumber: subsequent subsection